

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JEFFREY JUCHA d/b/a ATMOSPHERE TATTOO GALLERY,)	
)	
)	
Plaintiff,)	
v.)	No. 22 CV 00332
)	
VILLAGE OF BLOOMINGDALE, ILLINOIS, a municipal corporation,)	Honorable Judge Gary Feinerman
)	
Defendant.)	Jury Trial Demanded

**DEFENDANT VILLAGE OF BLOOMINGDALE’S
COMBINED 12(b)(1) AND 12(b)(6) MOTION TO DISMISS
PLAINTIFF’S AMENDED COMPLAINT**

Defendant, Village of Bloomingdale, by and through its attorneys, John B. Murphey, Odelson, Sterk, Murphey, Frazier & McGrath, Ltd., moves to dismiss Plaintiff’s amended complaint for the following reasons:

12(b)(1)

A. Plaintiff lacks standing to challenge any aspect of the Bloomingdale zoning ordinance absent a cognizable interest in any specific property.

B. This case is not ripe for adjudication, because Plaintiff has never sought nor obtained a final decision from the Bloomingdale corporate authorities with respect to Plaintiff’s desire to open a tattoo gallery/body art establishment at 398 Army Trail Road.

12(b)(6)

C. In the alternative, the Village moves to dismiss the amended complaint pursuant to Rule 12(b)(6). Plaintiff complains that his inability to lease space within the “Subject Property” is due to the fact that what he is proposing is a service business which is not allowed as a matter

of right in the Bloomingdale Square Shopping Center, because it is not a retail business. This restriction is not content-based and therefore does not violate the First Amendment.

In support of this motion, the Village attaches the following Exhibits. This Court may take judicial notice of each of these Exhibits. *Minch v. City of Chicago*, 486 F.3d 294 (2007) (Courts “make take judicial notice of local ordinances without resorting to summary judgment procedures”); *Ke Chiang Dai v. Holder*, 455 Fed. Appx. 25, 26 (2012) (taking judicial notice of Google Maps); *RJS Distribs., LLC v. Pepperidge Farm*, 2021 WL 6063867 (N.D. Ill. 2021) at footnote 2 (“Courts have concluded that Google Maps is a source whose accuracy cannot reasonably be questioned for some types of information including distances . . . and relevant locations”):

- | | |
|------------------|--|
| Exhibit 1 | Google Map aerial depiction of Bloomingdale Square Shopping Center. |
| Exhibit 2 | Village of Bloomingdale Ordinance No. 89-07 approving the Bloomingdale Square Shopping Center. |
| Exhibit 3 | Excerpts from the Village of Bloomingdale Zoning Ordinance. |
| Exhibit 4 | Village of Bloomingdale Ordinance No. 2006-20. |
| Exhibit 5 | Village of Bloomingdale Ordinance No. 2017-12. |
| Exhibit 6 | Village of Bloomingdale Ordinance No. 2021-16. |
| Exhibit 7 | Chapter 10, Article A of the Bloomingdale Zoning Ordinance, “Business Park Planned Unit Development District of 75-250 Acres.” |
| Exhibit 8 | Bloomingdale Ordinance No. 2022-22, “An Ordinance Amending Title 11 of the Village of Bloomingdale Code of Ordinances As It Relates To Allowances for Dermal Pigmentation Establishments.” |
| Exhibit 9 | Bloomingdale Ordinance No. 2022-28, “An Ordinance Amending Title 4 of the Village of Bloomingdale Code of Ordinances (Dermal Pigmentation Establishments).” |

In further support of this motion, Defendant separately files its memorandum of law.

Respectfully submitted,

VILLAGE OF BLOOMINGDALE,
Defendant

By: /s/ John B. Murphey
John B. Murphey, Its Attorney

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CERTIFICATE OF SERVICE

I, John B. Murphey, an attorney, hereby certify that I filed Defendant Village of Bloomingdale's Combined 12(b)(1) and 12(b)(6) Motion to Dismiss Plaintiff's Amended Complaint on all parties of record through the Court's CM/ECF filing system on July 15, 2022.

By: /s/ John B. Murphey
John B. Murphey, Its Attorney

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